

REMARKS

In an Office Action mailed March 15, 2005, the Examiner rejects all claims as obvious over the combination of the admitted prior art shown in Figures 1 and 2 and U.S. Patent No. 2,806,515 to Burst. The Examiner argues that it would be obvious to add a reinforcing member from Burst to the Figure 1 chair base and to attach the seat back support bracket to such a reinforcing member.

Applicant's representative thanks the Examiner for holding an interview on Tuesday, June 28, 2005. The following remarks summarize the discussions held at the interview. As discussed at the interview, Applicant submits that there is insufficient motivation for the combination put forth by the Examiner. The Examiner's relies on text in Burst stating that the construction presented provides a novel means for attaching a back support bracket. Applicant submits that this does not provide a motivation to modify the specific base of Figures 1 and 2 in the specific way claimed herein. The Burst design is completely dissimilar to the present design, such that a suggestion in Burst to construct the Burst chair in the illustrated manner does not translate to a suggestion to modify a completely different design. The Burst design, though the text mentions stacking, is not efficiently stackable like the current design. The Burst design utilizes straight wooden legs, which are not easily interconnected with the remainder of the chair, thereby necessitating or motivating the use of substantial structure. These considerations do not apply to the design of Figures 1 and 2, and therefore any motivation provided by Burst does not apply.

Rejections based on §103 must rest on a factual basis with these facts being interpreted without hindsight reconstruction of the invention from the prior art. The examiner may not, because of doubt that the invention is patentable, resort to speculation, unfounded assumption or hindsight reconstruction to supply deficiencies in the factual basis for the rejection. See In re Warner, 379 F.2d 1011,1017,154 USPQ 173, 177 (CCPA 1967), cert. denied, 389U.S. 1057 (1968). Our reviewing court has repeatedly cautioned against employing hindsight by using the appellant's disclosure as a blueprint to reconstruct the claimed invention from the isolated teachings of the prior art. See, e.g., Grain Processing Corp. v. American Maize-Prod. Co., 840 F.2d 902, 907, 5 USPQ2d 1788, 1792 (Fed. Cir, 1988).

When determining obviousness, "the [E]xaminer can satisfy the burden of showing obviousness of the combination 'only by showing some objective teaching in the prior art or that

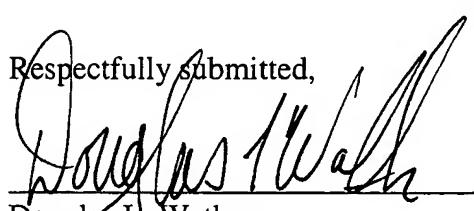
knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.”” In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002), citing In re Fritch, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992). “Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence.’” In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Even if the design of Figures 1 and 2 and the Burst reference were to be combined, such a combination would not meet the limitations of the pending claims. For example, the independent claims require a transverse member extending between and interconnecting the horizontal portions of the leg members. The braces 16 and 17 in Burst extend between the upper ends of the generally vertical legs, rather than between a horizontal portion. Additionally, some of the pending claims require the horizontal portions to bend inwardly, and for the transverse member to extend between the inwardly bent portions.

In order to further clarify the distinctions between the present invention and the prior art, independent claim 1 has been amended to provide that at least one transverse member interconnects the rear sections of the horizontal portions of the leg members and provides spaced apart fore and aft attachment points, and the back support bracket engages these attachment points. The Burst reference provides cross members that are at the perimeter of the base, generally aligned with the front and rear legs, respectively. This is in keeping with the text of the Burst reference wherein it explains that the structure provides reinforcement for the legs. If Burst were to be somehow combined with the design in Figures 1 and 2, such a combination would not provide spaced apart fore and aft attachment points on at least one transverse member that is located so as to interconnect the rear sections of the leg members.

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Tel. 734/913-9300

Respectfully submitted,

Douglas J. Wathen
Registration No. 41,369
Gifford, Krass, Groh, Sprinkle,
Anderson & Citkowski, P.C.
PO Box 7021
Troy, MI 48007-7021